

Appl. No. 09/752,372  
Response Dated December 20, 2005  
Reply to Office Action of September 20, 2005

Atty. Docket No. 42390.P10205  
Examiner: Soon D. Hyun  
TC/A.U. 2663

**REMARKS**

Claims 3-8, 10-14, 17-19, 22-24, 27 and 31-39 remain standing in this application. Claims 1-2, 9, 15-16, 20-21, 25-26, 28-30 and 40-44 have been canceled without prejudice. New claims 45-48 have been added. Claims 3, 6, 10, 13, 17-18, 22-23, 27, 33-34 and 37 have been amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

While Applicant disagrees with the broad grounds of rejection presented in the Office Action, claims 3, 6, 10, 13, 17-18, 22-23, 27, 33-34 and 37 have been amended in order to expedite prosecution on the merits.

At page 2, paragraph 3 of the Office Action claims 3-5, 13, 14, 17, 18, 22, 23, 27 and 34-36 stand rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent Number (USPN) 6,891,855 to Bruckman ("Bruckman"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

At page 4, paragraph 5 claims 10-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bruckman. Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

At page 5, paragraph 6, claims 19 and 24 are indicated as being allowed.

At page 5, paragraph 6 of the Office Action claims 6-8, 31-33 and 37-39 are indicated as being allowable if rewritten in independent form. Furthermore, at page 5, paragraph 7 of the Office Action, claims 6, 19, 24 and 33 are indicated as being allowable because the reference of record fails to teach:

Appl. No. 09/752,372  
Response Dated December 20, 2005  
Reply to Office Action of September 20, 2005

Atty. Docket No. 42390.P10205  
Examiner: Soon D. Hyun  
TC/A.U. 2663

evaluating whether said operating parameter has been determined within a limited time period.

Accordingly, Applicant has amended claims 3, 10, 13, 17-18, 22-23, 27 and 34 to include “evaluating whether said operating parameter has been determined within a limited time.”

Therefore, Applicant submits that claims 3, 10, 13, 17-18, 22-23, 27 and 34 and all claims directly and indirectly depending therefrom are in condition for allowance.

Moreover, at page 5, paragraph 7, claim 31 is indicated as being allowable because the cited reference fails to teach:

“said packet fragment size decreases as said priority level increases.”

Accordingly, Applicant has added new claim 45 corresponding to original claim 27 and including the language “said packet fragment size decreases as said priority level increases,” as recited in original claim 31. New claim 46 corresponds to original claim 33. Therefore, Applicant submits that claims 45-46 are in condition for allowance.

Finally, at page 5, paragraph 7, claim 32 is indicated as being allowable because the cited reference fails to teach:

“said packet fragment size increases as said priority level decreases.”

Accordingly, Applicant has added new claim 47 corresponding to original claim 27, and including the language “said packet fragment size increases as said priority level decreases,” as recited in original claim 32. New claim 48 corresponds to original claim 33. Therefore, Applicant submits that claims 47-48 are in condition for allowance.

Applicant does not otherwise concede, however, the correctness of the Office Action’s rejection with respect to any of the dependent claims discussed above.

Appl. No. 09/752,372  
Response Dated December 20, 2005  
Reply to Office Action of September 20, 2005

Atty. Docket No. 42390.P10205  
Examiner: Soon D. Hyun  
TC/A.U. 2663

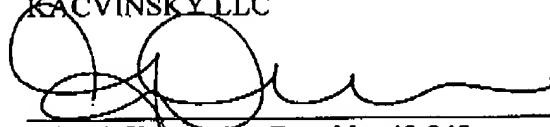
Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 3-8, 10-14, 17-19, 22-24, 27, 31-39 and 45-48 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 724-933-5529 to discuss any matter concerning this application.

Respectfully submitted,

KACVINSKY LLC

  
John F. Kacvinsky, Reg. No. 40,040

Dated: December 20, 2005

4500 Brooktree Road, Suite 102  
Wexford, Pennsylvania 15090

**CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8A)**

I hereby certify that this correspondence is being transmitted by facsimile on the date shown below to the United States Patent and Trademark Office.

---

Deborah L. Higham

Date